

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WILLIAM SEIBERLICH,)
Petitioner,)
v.) Case No. 4:08CV687RWS
AL LUEBBERS,)
Respondent.)

MEMORANDUM AND OPINION

This matter is before me on the petition for writ of habeas corpus filed by Petitioner William Seiberlich. I referred this matter to United States Magistrate Mary Ann L. Medler for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On November 12, 2008, Judge Medler filed her recommendation that Seiberlich's habeas petition should be denied.

Objections to Judge Medler's Report and Recommendation were due to be filed by November 24, 2008. Seiberlich has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the reasoning of Judge Medler and I will deny Seiberlich's habeas petition for the reasons stated in the Report and Recommendation dated November 12, 2008.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because Seiberlich has not made such a showing in this case, I will not issue a certificate of appealability.

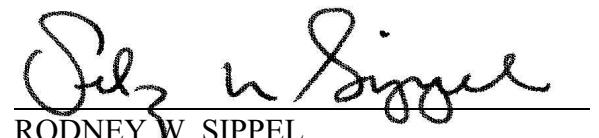
Accordingly,

IT IS HEREBY ORDERED that Judge Medler's report and recommendation [#8] filed on November 12, 2008 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner William Seiberlich's Petition for Writ of Habeas Corpus [#1] is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of December, 2008.